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10 ORACLE AMERICA, INC. and
11 ORACLE CREDIT CORPORATION

12 **UNITED STATES BANKRUPTCY COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 In re

16 **PG&E CORPORATION,**

17 **and**

18 **PACIFIC GAS AND ELECTRIC**
19 **COMPANY,**

20 Debtor.

- 21 ☐ Affects PG&E Corporation
22 ☐ Affects Pacific Gas and Electric
23 Company
24 ☒ Affects both Debtors

25 *All paper shall be filed in the Lead Case*
26 *No. 19-3088(DM)*

Case No. 19-30088 (DM)

Chapter 11
(Lead Case)

(Jointly Administered)

Re: Dkt No. 6320 and 7037

**ORACLE'S CURE OBJECTION AND
RESERVATION OF RIGHTS
REGARDING THE DEBTORS' AND
SHAREHOLDER PROPONENTS'
JOINT CHAPTER 11 PLAN OF
REORGANIZATION**

Date: May 27, 2020 @ 10:00 a.m.
Time: 10:00 a.m. (Pacific Time)
Location: **Telephonic Appearances only**
450 Golden Gate Ave., 18th Fl.
Courtroom 17
San Francisco, CA 94102

1 Oracle Credit Corporation and Oracle America, Inc., including in its capacity as successor
2 in interest to Opower, Inc. (“Oracle”), a creditor and contract counter-party in the above-
3 captioned Chapter 11 cases commenced by PG&E Corporation and Pacific Gas and Electric
4 Company (together, the “Debtors”), submits its *Cure Objection and Reservation of Rights* (“Cure
5 Objection”) regarding the proposed assumption of contracts between Oracle and the Debtors in
6 connection with the *Debtors’ and Shareholder Proponents’ Joint Chapter 11 Plan of*
7 *Reorganization Dated March 16, 2020* (“Plan”) [Dkt. No. 6320].

8 Through the Plan, the Debtors seek Bankruptcy Court authority to assume executory
9 contracts between Oracle and the Debtors at a \$0 cure amount, notwithstanding that the Debtors
10 have not paid all amounts owed to Oracle. Accordingly, Oracle requests that the Court deny the
11 Debtors’ request for authority to assume the Oracle agreements absent payment of the appropriate
12 cure amount.

13 **I. BACKGROUND**

14 On January 29, 2019 (“Petition Date”), the Debtors commenced these Chapter 11 cases by
15 filing a voluntary petition for relief. The Debtors continue to operate as debtors-in-possession.

16 Oracle is a licensor of computer software and provides software related products,
17 technical support, maintenance, educational materials, and programs, as well as cloud-based
18 services, including Software-as-a-Service, which Oracle often customizes to meet the customer’s
19 specific needs. Prior to the Petition Date, the Debtors and Oracle entered into various licenses and
20 agreements for related services, some of which were financed through Oracle Credit Corporation.

21 On October 21, 2019, Oracle America Inc. filed a proof of claim in the amount of
22 \$1,312,898.15, assigned Claim No. 78399 (the “Oracle Claim”). Oracle continues to provide the
23 Debtors with goods and services post-petition.

24 On May 1, 2020, Debtors filed the *Schedule of Executory Contracts and Unexpired*
25 *Leases to be Assumed Pursuant to the Plan and Proposed Cure Amounts* (“Assumption
26 Schedule”) as Exhibit “B” to the *Notice of Filing of Plan Supplement in Connection With*
27 *Debtors’ and Shareholder Proponents’ Joint Chapter 11 Plan of Reorganization Dated*
28 *March 16, 2020* (“Plan Supplement”) [Dkt. No. 7037]. The Assumption Schedule identifies the

following Oracle contracts:

Non-Debtor Counterparty	Debtor	Title of Agreement	Effective Date of Agreement	Cure Amount
ORACLE AMERICA INC.	PACIFIC GAS AND ELECTRIC COMPANY	ORACLE OSA US-5102-OSA-01-AUGUST-2010	8/1/2010	\$0.00
ORACLE AMERICA INC.	PACIFIC GAS AND ELECTRIC COMPANY	NATURAL GAS SERVICE AGREEMENT	1/1/2016	\$0.00
ORACLE AMERICA INC.	PACIFIC GAS AND ELECTRIC COMPANY	ORDERING DOCUMENT – MASTER AGREEMENT AND MODIFICATIONS TO AGREEMENT - ORACLE BUSINESS INTELLIGENCE SUITE FOUNDATION EDITION ORACLE DATA INTEGRATOR FOR ORACLE BUSINESS INTELLIGENCE ORACLE UTILITIES CUST CARE & BILLING	11/30/2016	\$0.00
ORACLE AMERICA INC.	PACIFIC GAS AND ELECTRIC COMPANY	ORACLE CLOUD SERVICES AGREEMENT	11/26/2016	\$0.00
ORACLE AMERICA INC.	PACIFIC GAS AND ELECTRIC COMPANY	ORDERING DOCUMENT - SOFTWARE LICENSE AND SERVICES AGREEMENT - VARIOUS ORACLE	11/30/2017	\$0.00
ORACLE AMERICA INC.	PACIFIC GAS AND ELECTRIC COMPANY	ORDERING DOCUMENT - ORACLE DATA PROCESSING AGREEMENT - VARIOUS ORACLE CLOUD SERVICES	11/30/2017	\$0.00
ORACLE CORPORATION	PACIFIC GAS AND ELECTRIC COMPANY	AMENDMENT ONE - SOFTWARE LICENSES	5/14/1989	\$0.00

The Plan sets forth the following procedures for the assumption and rejection of executory contracts:

As of, and subject to, the occurrence of the Effective Date and the payment of any applicable Cure Amount, all executory contracts and unexpired leases of the Reorganized Debtors shall be deemed assumed, unless such executory contract or unexpired lease (i) was previously assumed or rejected by the Debtors, pursuant to a Final Order, (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto, (iii) is the subject of a motion to assume, assume and assign, or reject filed by the Debtors on or before the Confirmation Date, or (iv) is specifically designated as an executory contract or unexpired lease to be rejected on the Schedule of Rejected Contracts.

Plan Art. VII § 8.1 (a).

The *Schedule of Executory Contracts and Unexpired Leases to be Rejected Pursuant to the Plan*, attached as Exhibit “A” to the Plan Supplement, does not identify any agreement

1 between Oracle and the Debtors. Therefore, based on Article VII of the Plan, Oracle understands
2 that the Debtors intend to assume the entire contractual relationship between the Debtors and
3 Oracle – regardless of whether all contracts between Oracle and the Debtors are specifically
4 identified on the Assumption Schedule. Thus, this Cure Objection refers to all agreements
5 between Oracle and the Debtors, including those listed on the Assumption Schedule, as the
6 “Oracle Agreements.”

7 Oracle continues to investigate the Oracle Agreements to determine what additional sums
8 are currently due, and reserves its rights to assert additional appropriate cure amounts. Oracle
9 hopes to review and resolve these matters with Debtors before the May 27th Plan confirmation
10 hearing, and files this Cure Objection in an abundance of caution, to ensure all of its rights are
11 reserved.

12 **II. ARGUMENT**

13 **A. The Debtors Must Cure All Arrearages Prior to Assuming the Oracle** 14 **Agreements.**

15 Before assuming an executory contract, the Debtors must cure all monetary defaults under
16 the subject contracts. 11 U.S.C. § 365(b)(1). The Plan provides that cure amounts will be paid on
17 the effective date, provided there is no unresolved dispute. Plan Art. 8.2(a). Thus, to assume the
18 Oracle Agreements, Debtors must pay all sums outstanding as of the proposed date of assumption
19 (i.e. both pre- and post-petition amounts owed), and cure any related default.

20 The Debtors erroneously assert through the Assumption Schedule that the cure amount
21 associated with the Oracle Agreements is \$0, notwithstanding the Oracle Claim. Moreover, the
22 Plan provides that, on the Effective Date, “[a]ny proofs of Claim filed with respect to an
23 executory contract or unexpired lease that has been assumed or assumed and assigned shall be
24 deemed disallowed and expunged, without further notice to or action, order, or approval of the
25 Bankruptcy Court.” Plan Art. 8.2 (e).

26 Unless and until the Debtors cure all defaults under the Oracle Agreements, no executory
27 contract between the Debtors and Oracle may be assumed and the Oracle Claim may not be
28 “expunged.”

1 **III. CONCLUSION**

2 For the reasons set forth above, Oracle respectfully requests that the Court deny the
3 Debtors' request for authority to assume the Oracle Agreements absent the Debtors' cure of the
4 outstanding amounts due and owing to Oracle.

5 DATED: May 15, 2020

BUCHALTER, A Professional Corporation

7 By: /s/ Valerie Bantner Peo
8 Valerie Bantner Peo, Esq.
9 Attorneys for Oracle America, Inc. and
Oracle Credit Corporation